

### REMARKS

Claims 1-16 and 19-20 are pending in the application. Claims 1, 11, 14, 19, and 20 have been amended herewith. Favorable reconsideration of the application, as amended, is respectfully requested.

#### I. REJECTIONS OF CLAIMS 1-16, 19 AND 20 UNDER 35 U.S.C. § 112

Claims 1-16, 19, and 20 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Applicants believe that these claims are definite in the current form for at least the following reasons.

In independent claims 1, 11, 14, 19, and 20, the "payload data" refers to data which is transmitted between the first and second SDSL modems. Various embodiments according to the invention additionally utilize the "field ... not conventionally used for transmitting the payload data" for transmission of a portion of the payload data. Such "field ... not conventionally used for transmitting the payload data" provides higher effective data rate as described at page 6, lines 5-7 of the present specification. Specifically, in a specific embodiment of the invention as shown in Fig. 3, the claimed "payload data" contains 97 bits in each payload block, while 96 data bits are transmitted in the conventional payload block 108 shown in Fig. 1.

Thus, contrary to the Examiner's concern, the portion of the payload data is not moved to the F/Z field. Rather, the unused F/Z field is filled by an additional payload data in a specific embodiment of invention. From the plain meaning of the claim language, it is respectfully submitted that the claim language, "employing the field for transmission of a portion of the payload data," is definite since it is clear that the invention utilizes the field to transmit a portion (e.g., 1 bit in a specific embodiment of the invention) of the payload data (e.g., 97 bits in the specific embodiment). Withdrawal of the rejections is respectfully requested.

#### II. REJECTIONS OF CLAIMS 1-16, AND 19-20 UNDER 35 U.S.C. § 103

Claims 1-16, and 19-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicants' Admitted Prior art (AAP) and U.S. Patent No. 5,751,723 ("Vanden"). These claims are believed to be allowable for at least the following reasons.

The inventions defined in independent claims 1, 11, 14, 19, and 20 relate to a non-conventional use of a field in each payload block of an HDSL frame format which is conventionally used for enabling a feature corresponding to T1 or E1. Various embodiments of the invention utilize the field for transmitting a portion of the payload data.

Independent claims 1, 11, 14, 19, and 20 have been amended to further clarify pertinent aspects of the invention. Specifically, independent claims 1, 11, 14, 19, and 20 require employing the field for transmission of a portion of the payload data in a predetermined manner. In the Office Action dated October 6, 2003, the Vanden patent was cited as describing unused or vacant bits used for extra data transmission. However, the Vanden patent fails to teach or suggest the above-identified claimed aspect of the invention, i.e., employing the field for transmission of a portion of the payload data in a predetermined manner.

The Vanden system receives various types of packets. In order to use unused bits, the Vanden system must first determine a type of a packet on the fly, thereby creating unused bit catalog 125. See, Vanden, column 2, line 55 - column 3, line 8. Such determination of a packet type and preparation of the unused bit catalog would necessarily cost the Vanden system delay of data transmission, and complexity of circuitry. Vanden, e.g., column 2, lines 57-59.

By contrast, the claimed invention utilizes an unused field to transmit a portion of the payload data in a predetermined manner. Specifically, in one exemplary embodiment of the invention, the data to be transmitted enters framing circuit 308 at a data rate 8 kbps higher (e.g., 776 kbps) than the standard HDSL rate (e.g., 768kHz). Page 5, lines 10-13 of the present specification. Some of the bits in the incoming raw data are directed to the F/Z bit register associated with the framing circuit 308. Then, these bits in the F/Z bit register occupy the same position in the generated data frames as the F/Z bits would have occupied if the data were transmitted according to the T1 or E1 protocol. There is no need to determine the packet type of the incoming data stream as opposed to the Vanden system. This transmission of additional payload data corresponding to the F/Z bits is achieved by utilizing the flexible programmable features of the framing circuitry chip set. See, page 5, line 26 - page 6, line 4 of the specification.

Since the framing circuit 308 reconstructs data stream by inserting bits stored in the associated F/Z bits into predetermined positions in the data frame, the embodiments of the invention do not require packet type identification as done in the Vanden system. In other words, the embodiments of the invention are capable of transmitting the payload automatically, without determining the packet type, thereby eliminating delay related to the packet type identification as compared to the Vanden system.

In view of the foregoing, the Vanden patent cannot be said to remedy the teachings of AAP. Therefore, the inventions of independent claims 1, 11, 14, 19, and 20, and their dependent claims are believed to be patentable over the cited art. Withdrawal of the rejections is respectfully requested.

### III. CONCLUSION

Applicants believe that all pending claims are in condition for allowance, and respectfully request a Notice of Allowance at an early date. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 510-843-6200, ext. 245.

Respectfully submitted,  
BEYER WEAVER & THOMAS, LLP



Haruo Yawata  
Limited Recognition under 37 CFR § 10.9(b)

P.O. Box 778  
Berkeley, CA 94704-0778  
Tel: 510-843-6200, ext. 245


**BEFORE THE OFFICE OF ENROLLMENT AND DISCIPLINE  
UNITED STATE PATENT AND TRADEMARK OFFICE**

**LIMITED RECOGNITION UNDER 37 CFR § 10.9(b)**

Mr. Haruo Yawata is hereby given limited recognition under 37 CFR §10.9(b) as an employee of Beyer Weaver & Thomas, LLP. to prepare and prosecute patent applications wherein the patent applicant is the client of Beyer Weaver & Thomas, LLP., and the attorney or agent of record in the applications is a registered practitioner who is a member of Beyer Weaver & Thomas, LLP. This limited recognition shall expire on the date appearing below, or when whichever of the following events first occurs prior to the date appearing below: (i) Mr. Haruo Yawata ceases to lawfully reside in the United States, (ii) Mr. Haruo Yawata's employment with Beyer Weaver & Thomas, LLP. ceases or is terminated, or (iii) Mr. Haruo Yawata ceases to remain or reside in the United States on an H-1B1 visa.

This document constitutes proof of such recognition. The original of this document is on file in the Office of Enrollment and Discipline of the U.S. Patent and Trademark Office.

**Expires: January 2, 2004**

  
\_\_\_\_\_  
Harry Moatz,  
Director of Enrollment and Discipline